

REPUBLIC OF SERBIA

**MULTI DONOR TRUST FUND FOR JUSTICE SECTOR SUPPORT
TF071444**

Implementation Support Mission

AIDE MEMOIRE

13-17 May 2013

A. INTRODUCTION

1. **A World Bank team visited Belgrade from 13 to 17 May 2013, to provide implementation support to the Serbia Multi Donor Trust Fund for Justice Sector Support (MDTF-JSS).** The mission was led by Mr. Klaus Decker (Senior Public Sector Specialist and Task Team Leader). The mission also comprised Mr. Edgardo Mosqueira (Lead Public Sector Development Specialist, LCSPS and outgoing Task Team Leader), Ms. Georgia Harley (Consultant, ECSP4) and Ms. Dolly Teju (Program Assistant, ECSP4). The mission was joined from Belgrade by Mr. Srdjan Svirčev (Public Sector Specialist, ECSP4, Program Coordinator), Mr. John Furnari (Consultant, ECSP4), Ms. Hermina Vuković Tasić (Program Assistant, ECCYU), Mr. Aleksandar Crnomarković (Senior Financial Management Specialist, ECSO3) and Mr. Jose Martinez, (Senior Procurement Specialist, ECSO2).

2. **The objectives of the mission were to:**

- Assess the current implementation status of the MDTF-JSS;
- Agree on priority activities to be initiated;
- Identify and address any current or anticipated implementation issues, and;
- Introduce the new Task Team Leader and team members to the client, representatives of justice sector institutions, and development partners.

3. **The team met with officials from the Ministry of Justice and Public Administration (MOJPA), the judiciary, justice sector stakeholders, MDTF donors and other development partners.** The team expresses its gratitude to all the stakeholders met, particularly to the Government and the Judiciary for their hospitality and cooperation. A list of people met is attached as **Annex 1**.

B. KEY FINDINGS AND AGREED NEXT STEPS

4. **The mission introduced the new Task Team Leader to the Government of Serbia and key stakeholders and outlined their responsibilities under the MDTF-JSS.** Mr. Klaus Decker, Senior Public Sector Specialist based in Washington DC has assumed the role of Task Team Leader and will be responsible for the provision and quality supervision of the activities executed with the MDTF-JSS. Mr. Decker will also lead the policy dialogue with the government authorities and donors. Ms Georgia Harley based in Washington DC will be

responsible for the provision of technical advice and administration of the trust fund. Mr. Srdjan Svirčev, Public Sector Specialist, will continue to coordinate MDTF-JSS activities in Serbia.

5. **Assistant Minister Backović formally requested that the MDTF-JSS conduct a ‘functional review’ of the judicial system.** A functional review had been recommended by the EU to the MOJPA and both parties agreed that a review of the core justice institutions would provide a foundational platform for Serbia’s EU accession negotiations, by providing a useful baseline for future monitoring and evaluation of Serbian reform efforts and by identifying key aspects, challenges and options for justice sector reform. The MOJPA, Supreme Court of Cassation, High Judicial Council and State Prosecutorial Council expressed support for this activity and assured the team that Serbian authorities would work closely with the review team and share relevant data. Donors, including the EU Delegation in Serbia, were also highly supportive of the activity. The team prepared a draft Briefing Note for the functional review (at **Annex 2**). The team advised stakeholders that, depending on the scope, the functional review would likely take nine (9) months to complete and cost around EURO 750,000. It was unlikely that these funds could be re-allocated within the existing MDTF budget, as the existing budget had been allocated to priorities agreed upon between the donors and the Government, and because restructuring would require a lengthy process of amending the legal agreement between the World Bank, the Government and all the MDTF donors. The team cautioned that such a restructuring would seriously delay the start date of the functional review. As a result, the team would seek to identify a new funding source, possibly via an additional contribution to the MDTF from one or several existing donors. The team will prepare a draft Concept Note for the functional review to share with the MOJPA and donors for comment by mid-June 2013.

6. **The MOJPA is focused on preparing the final draft of the Justice Reform Strategy for the period 2013-2018 by the end of June 2013.** In addition to the Strategy, officials outlined a long list of priorities for justice sector reform, the implementation of which would likely stretch change management capacities across the sector.

7. **The ICT Strategy for the Justice Sector has been developed.** A final report has been shared with MOJPA for approval. Based on the MOJPA’s approval and acceptance of final report the Bank team will conduct quality assurance of the final project’s outputs. For this purpose, the Bank’s IT Expert, Mr. Ramesh Siva, will come to Belgrade. The contract for this consultancy is set to end on 31 May 2013. Given the tight deadline for final approval, a no-cost extension until the end of June will be required to enable the World Bank to complete the quality assurance review.

8. **The team reviewed progress on the Review of the Criminal Case Process (RCCP) with a view to prioritizing finalization of this activity.** The team met with the local consultant, MEGA, to convey again key concerns with the data collection and analysis to date and to advise MEGA that these amounted to material breaches under the existing contract. The team provided MEGA with the option to rectify the material breaches within 30 days or terminate the contract. MEGA agreed to re-collect relevant data and re-submit the relevant deliverables within 30 calendar days from the date on which they receive approval from the three relevant institutions to re-visit the field sites.

9. **The team continued to provide support to the preparation of the Free Legal Aid Law.** Assistant Minister Blagojević as Chair of the FLA Working Group, as well as Assistant Minister Backović, confirmed the Government's plan to approve the Law on Free Legal Aid during 2013. The team commenced preparatory work for an analysis of fiscal options and impacts. The MoJ-PA convened its newly established FLA Working Group (WG) on 14 May, and anticipates that completion of the draft FLA Law by the end of September. The FLA WG will endeavor to resolve some of the key questions with the law (i.e. defining eligible legal aid providers, defining the nature and structure of the body administering FLA delivery) so that the FLA legislation strikes a balance between the delivery of both quality and affordable, state-funded legal aid services which, over time, will meet ECHR standards governing this right. The MDTF-JSS will support this effort by providing counsel during WG sessions, facilitating WG member dialogue, and working with MoJ-PA to establish a road map for completing subsidiary FLA regulations, and the FLA-related client-executed deliverables.

10. **Based on the recommendations from the Mid-Term Review, the team initiated revision and update of the MDTF-JSS Performance Framework.** The existing performance framework does not reflect changes caused by restructuring of the MDTF. The updated Performance Framework will take into account results from both Bank-executed and Recipient-executed components of the MDTF. For this purpose, the team has prepared TOR to engage a consultant to deliver an updated framework by mid-August 2013. In addition to the revision of Performance Framework the MDTF Team will also update the Program Framework for the Trust Fund.

11. **The team will finalize the TOR for the MDTF website upgrade by the end of May 2013.** The consultant will be engaged as a matter of priority in July 2013.

12. **The team sought advice from the MOJPA on options for the sustainability of the Reform Facilitation Unit (RFU).** MDTF funding for the RFU will cease at the end of December 2013. Assistant Minister Backović noted that the RFU has served a useful purpose, and that its existence in some form may be useful for reform implementation. Mr. Backović undertook to consider options for the sustainability of the RFU in the coming months.

13. **The team agreed to finalize by the end of May 2013 TOR to engage a consultant for the development of performance indicators for the justice sector.** This activity is aimed at supporting the Serbian justice system institutions to effectively manage sector performance.

14. **The team agreed that 2013 may be an opportune time to conduct a follow-up to the Multi-Stakeholder Perspective Survey.** The team will identify consultants and draft TOR by the end of May 2013, with a view to conducting the follow-up survey and publishing its results before the end of 2013.

15. **The team discussed options for technical assistance for Public Notaries with MOJPA and GIZ.** The implementation of Law on Public Notaries is postponed until September 21013. According to Assistant Minister Blagojević first 100 public notaries will pass notary exam by the end of 2013 which will be followed by creation of Notary Chamber in early 2014. It has been confirmed with GIZ and MOJPA that one of the priorities for assistance will be to

assess how to interface notary service with the other services provided by courts and judiciary. For this purpose the Bank team will work with MOJPA and GIZ on finalization of TOR to engage a consultant which will conduct this analysis.

16. **The team confirmed that a rapid assessment of the administrative office of the HJC is no longer required.** The request for support had come after the meeting MDTF Team had with Judge Milojević, Acting President of the Supreme Court of Cassation, in March 2013. However, the HJC was under pressure to decide on the format and composition of the Administrative Office and passed the new Human Resources Plan and Organization Scheme of the Administrative Office without the Bank’s assessment on April 2, 2013. The HR Plan is available (in Serbian) at <http://www.vss.sud.rs/doc/akti/Odluka-o-organizaciji-i-radu-administrativne-kancelarije-02042013.pdf> and Organizational Structure of Administrative Office is available at <http://www.vss.sud.rs/doc/akti/OrganogramAKVSS.pdf>

17. **It was agreed that the next Management Committee meeting would be held on Friday 14 June 2013.** Invitations and a draft agenda for the Management Committee were circulated to Management Committee members.

18. **Key next steps are highlighted in the table below.**

| Next steps | Time Frame |
|---|---|
| Support to MOJPA in drafting of updated Justice Sector Reform Strategy and Action Plans | Ongoing |
| Draft Concept Note for Functional Review | June 14th, 2013 |
| Draft Concept Note for Performance Measurement of Serbian Justice Sector | May 31 st , 2013 |
| Prepare TOR for update of the MDTF-JSS Results Framework | May 31 st , 2013; Draft by July/August 2013 |
| Update of the MDTF-JSS web site | TOR prepared by May 31 st , 2013; Redesign completed by mid-August 2013 |
| Multi-Stakeholder Perception Survey | TOR by May 31 st , 2013 Survey published by end-2013 |
| Revise Concept Note of fiscal analysis of free legal aid | May 31 st , 2013 |
| Quality assurance of the ICT Strategy for Justice Sector | June 30 th , 2013 |
| Draft of the Review of the Criminal Chain Process Analysis | July 31 st , 2013 |
| Update of the MDTF Program Framework | August 31 st , 2013 |

C. PROGRESS TOWARDS PROJECT DEVELOPMENT OBJECTIVE (PDO)

19. **Progress toward the Project Development Objectives is satisfactory.** The objective of the Trust Fund is to provide support for strengthening and advancing the justice sector reform in the Republic of Serbia in order to facilitate its integration to the EU. The implementation of Bank-executed activities remains on track, with progress across all sub-components (institutional capacity, resource management and aid coordination, legal and institutional environment, judicial facilities and infrastructure, and outreach, monitoring and evaluation). After the initially slow start caused by the elections in May 2012 and subsequent changes in the MOJPA, the

implementation of Recipient-executed activities has picked up in 2013. The MOJPA is investing serious effort in preparation of the final draft of the new Justice Reform Strategy for the period 2013-2018 by June 2013.

D. PROJECT MANAGEMENT

20. **No procurement issues were identified during the mission.** Responses to procurement requests are answered and resolved on a timely basis, and there is nothing pending. The team also inspected all PIU procurement files to ensure that documents were filed according to Bank's procurement guidelines and procedures.

21. **No financial management issues were identified during the mission.** The financial management arrangements of the MDTF-JSS, including budgeting, accounting, internal controls, funds flow, financial reporting and external audit, are assessed to be moderately satisfactory. The MOJPA and PIU have addressed the areas for improvement based on the financial management on-site supervision from March 2012.

List of Persons Met

| Last Name | First Name | Title/Organization |
|-----------|------------|--------------------|
|-----------|------------|--------------------|

Government and Justice Officials

| | | |
|-----------------|-----------|---|
| Mr. Nikolić | Danilo | State Secretary, MoJPA |
| Mr. Backović | Čedomir | Assistant Minister, MOJPA |
| Ms. Blagojević | Ljiljana | Assistant Minister, MOJPA |
| Mr. Milojević | Dragomir | Acting President of the Supreme Court of Cassation |
| Ms. Kršikapa | Majda | Administrative Office, High Court Council |
| Ms. Janićijević | Gordana | Deputy Republic Public Prosecutor |
| Mr. Ostojić | Djordje | Deputy Republic Public Prosecutor |
| Mr. Stamenković | Branko | Deputy Higher Public Prosecutor in Belgrade and Prosecutor for Cybercrime |
| Ms. Krejović | Ljiljana | Procurement Specialist: PIU - MDTF JSS |
| Ms. Grubić | Daliborka | Financial Specialist PIU – MDTF-JSS |

International Community

| | | |
|-----------------------|-----------|---|
| Mr. Kern | Martin | Head of Operations, European Union Delegation |
| Ms. San Jose | Yolanda | Head of Operations I, European Union Delegation |
| Ms. Vandeputte | Bianca | Program Manager, European Union Delegation |
| Mr. Wujcik | Patrick | Chief of Party, USAID Separation of Powers Program |
| Ms. Prostran | Sonja | Deputy Chief of Party, USAID Separation of Powers Program |
| Mr. Svenungsson | Torgny | Counselor, Country Manager, Development Cooperation Division, Embassy of Sweden |
| Ms. Nešović | Svetlana | Program Officer, Development Cooperation Division, Embassy of Sweden |
| Mr. de Miguel Álvarez | Francisco | Deputy Head of Mission, Embassy of Spain |
| Ms. Noor | Mina | Embassy of the Kingdom of the Netherlands |
| Mr. Vetter | Larry | Chief of party, JRGA – Judicial Reform and Government Accountability, (USAID funded project) |
| Ms. Lukić | Dragana | Deputy chief of party, JRGA – Judicial Reform and Government Accountability, (USAID funded project) |
| Ms. Schweiger | Romana | Head of the Rule of Law and Human Rights Department, OSCE Mission to Serbia |
| Mr. Thunedborg | Soren | First Secretary, Embassy of Denmark |
| Ms. Nielsen | Christine | Secretary, Embassy of Denmark |
| Mr. Falke | Mike | Team leader, Legal Reform Project, GIZ |
| Mr. Baltić | Miloš | Project Manager, Legal Reform Project, GIZ |
| Mr. Gjengsto | Halvor | International Management Group IMG, Norway |

Other (Agencies, NGOs, Community Representatives)

| | | |
|--------------------|------------|---|
| Ms. Boljević | Dragana | President, Judges Association of Serbia |
| Mr. Hadžiomerović | Omer | Judge, Judges Association of Serbia |
| Mr. Mitić Vranjkić | Konstantin | President of the Management Board, Judges Association of Serbia |
| Mr. Ilić | Goran | President, Prosecutors Association of Serbia |
| Ms. Matić | Marina | Prosecutors Association of Serbia |
| Mr. Popović | Aleksandar | MEGA |
| Mr. Veljović | Dragan | MEGA |

World Bank Team

| | | |
|-------------------|---------|---|
| Mr. Brefort | Loup | Country Manager |
| Mr. Decker | Klaus | Senior Public Sector Specialist (TTL) |
| Mr. Mosqueira | Edgardo | Lead Public Sector Development Specialist |
| Mr. Svirčev | Srdjan | Public Sector Specialist, Program Coordinator |
| Mr. Furnari | John | Consultant |
| Ms. Harley | Georgia | Consultant |
| Ms. Teju | Dolly | Program Assistant |
| Ms. Vuković Tasić | Hermina | Program Assistant |

Briefing Note for a Judicial Functional Review

Background

This review will be carried out by the World Bank to provide a baseline and analytical input for the accession negotiations between Serbia and the European Union. The objective of the review is to (1) provide a sound empirical basis to enable Serbia and the European Union to assess the impact of future justice reform initiatives compared to current justice system performance, and to (2) assess the current functioning of the institutions of the judicial system in Serbia with a view to providing analytical and advisory input to ongoing and planned justice reform initiatives in Serbia to achieve EU accession.

Scope

The review will focus on the main institutions of the justice system (Ministry of Justice, High Judicial Council, courts, State Prosecutorial Council, prosecutors, judicial academy etc., with the exception of police and prison services). The World Bank will ensure that the analysis will complement ongoing assessment and data collection activities in order to avoid duplication.

Performance Baseline Data

The review will collect currently available justice system performance data focusing on efficiency of the justice system, quality of service delivery, and access to justice. It will identify data gaps and generate the required additional data to have a comprehensive baseline with objective data covering all relevant performance aspects to be agreed upon between the Serbian authorities and the European Union.

Performance Assessment

The review will further analyze the performance of the justice system and of the individual institutions that contribute to its functioning. The analysis will comprise an assessment of how financial and human resources, information and communication technology, court infrastructure and other resources contribute to the overall performance of the system. It will identify performance challenges and options for initiatives to address them.

To arrive at these conclusions, qualitative and quantitative approaches will be combined. The first step will involve a definition of hypothesized problems and their causes based on available analysis and consultations with a broad set of stakeholders. In a second step, competing hypotheses will be tested through statistical analysis and comparisons with international benchmarks, standards, and practices. In a third step, long-, medium-, and short-term options for addressing the most relevant issues will be identified.

Communication

Throughout the review process, active involvement of and communication with the Serbian justice institutions, on the one hand, and the European Commission, on the other hand, will be crucial. At early stages, it will be important to agree on the relevant methodology to arrive at results that will be seen as legitimate by both sides. Results will be shared by the review team in a transparent manner and through an inclusive process at all stages of the analysis.

Schedule

Depending on the exact scope of the analysis and the proactivity of the relevant institutions in their interaction with the review team and their willingness to share data, it is anticipated that the timeframe for the delivery of the final output will be about 9 months. However, the World Bank is planning to share intermediary deliverables such as the results of court user surveys and administrative data collection at earlier stages. The same is envisioned for the analysis of the contribution of the various types of resources (financial, human, ICT, infrastructure etc.) to justice system performance. A phased approach to delivery is also an option with a first phase focusing on data collection and generation and a second phase mainly dedicated to analysis.

Funding

The World Bank will carry out this activity through donor funding. Depending on the exact scope, it is estimated that the required financial effort will be around EUR 750,000.